CEQA REFORM

Carol Galante
BRIDGE Housing Corporation

There are several inter-related problems with the current CEQA regulatory framework.

1. Breadth of issues covered
2. Expense and Time of Process
3. Litigation threats

1. Breadth of Issues

The number of issues studied in the CEQA process has grown exponentially from its initial inception in 1970. This has occurred both by regulation and by case law as a result of litigation. Initially, CEQA applied only to government sponsored projects. There are two approaches to solving this problem (these are not mutually exclusive). The first is to directly change the statutes to refocus environmental reviews on truly significant *direct environmental impacts.* This would mean that a myriad of issues currently studied (or debated that they should be studied) during the environmental review would simply be removed from the process. Issues to be excluded for example would be socio-economic, visual/aesthetic, historic and cultural resources, land use patterns, etc. This is not to say that these are not important considerations for decision-makers but these considerations should not be part of the environmental review. Similarly, there are issues that are already regulated by a state agency and there is no reason they should be analyzed as part of the environmental review process since they will be dealt with directly- toxic remediation is one such example. The second major reform would be to narrow the types of projects subject to the environmental review process. This can be done by having environmental review only on the underlying general plan and zoning actions not on individual projects. Similarly, projects of a smaller size and scope and/or in urban infill locations could be exempt from the process.

2. Expense and Time

CEQA is a *process* and it is time consuming and very expensive. It is designed as a disclosure type of process and does not usually result in any significant changes to an actual project. The results of the CEQA process are usually millions of dollars and months if not years of processing that do not change the ultimate outcome. This is a waste of resources on attorneys and consultants that do not add value to the project. In fact for housing, it significantly increases housing costs and exacerbates the affordability crisis (and drives housing development to outlying areas that cause worsening environmental impact). Limiting the breadth or scope of CEQA as outlined above will help this problem.

3. Litigation Threats

There is no certainty that even after going through a lengthy and expensive CEQA review process that the project which is the subject of the review will not be challenged. To the contrary, virtually all of the expense of the environmental review is consultants and attorneys trying to "bullet proof" the EIR from the impact of threatened litigation. Opponents of projects use the process to try and negotiate/demand changes. This does not result in reasoned land use decisions. It simply adds to the cost of the development. One solution as stated in number one above is to greatly narrow the scope of environmental reviews. The second is to change the framework of CEQA to not have court challenges as the final step in the process but to replace litigation with some other independent review of the process and have that independent agency determine ultimate adequacy of the process. There could also be much clearer definitive standards for this agency's actions.